IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 8364 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

HANSABEN CHANDULAL KANDOI - Applicant(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

==========

Appearance :
MR AD SHAH for Applicant(s) : 1,
MR.MA PATEL APP for Respondent(s) : 1,
NONE for Respondent(s) : 2,

==========

CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 09/09/2005

ORAL JUDGMENT

1.Rule. Mr. M.A. Patel waives service of Rule. On the joint request of the parties, the matter

was taken for final hearing.

2. The petitioner has filed this petition under Section 482 of the code of Criminal Procedure for quashing and setting aside the F.I.R. and chargesheet filed against the petitioner in the Court of Chief Judicial Magistrate at Nadiad in Criminal Case No. 3565 of 2004.

3. It is the case of the petitioner that the Managing Committee of Swami Co-operative Credit Society Ltd. passed a resolution on 13.01.1998 to co-opt the petitioner as Legal Advisor. The petitioner having been informed about her status as “Co-opt Member” of Managing Committee, attended the meeting on 27.01.1998 and advised to have resolution to be passed for sanctioning of loan and its procedure whereby it came to be resolved. “Before advancing loan to the loanee, original document should be taken against complete loan applications and loan should be disbursed only after execution

of mortgage deed". The petitioner, thereafter on 1.02.1998 received loan applications for scrutiny as per the resolution and since the said applications were not in compliance with the resolution passed on 27.01.1998, the same were returned to the society. The petitioner observed that the procedure has not been followed by the society and hence she did not find it appropriate to continue as "Legal Advisor" and "Co-opt Member" of the said society and forwarded her resignation letter with a copy to the District Registrar on 3.02.1998. The petitioner, thereafter never attended the meeting of the society and her resignation was accepted at the meeting held on 10.03.1998.

4.Despite the above facts, when the petitioner was impleaded as an accused No.8 in F.I.R. and the Police submitted chargesheet before the Court of Chief Judicial Magistrate on 7.06.2004, which was registered as Criminal

Case No. 3565 of 2004, the petitioner submitted application for discharge U/s. 239 which was rejected on 6.01.2005. Being aggrieved and dissatisfied with the said order, the petitioner filed Criminal Revision Application before the Additional Sessions Judge, Fast Track Court, Nadiad, which was also rejected on 18.07.2005.

5. It is these orders by which the petitioner is aggrieved. However, the petitioner has prayed for quashing of Criminal Case No. 3565 of 2004. This Court has issued notice on 1.08.2005 and directed the prosecution to show the details of involvement of the petitioner, if any, from 13.01.1998 to 10.03.1998.

6. Pursuant to the order passed by this Court on 1.08.2005, learned APP Mr. M.A. Patel has placed on record the minutes dated 13.01.1998,

27.01.1998 and 10.03.1998. It appears from the said minutes that the name of the present petitioner was proposed at the meeting held on 13.01.1998 and she was not present in the said meeting. The loan applications of some persons were sanctioned at the meeting held on 13.01.1998. The meeting was thereafter held on 27.01.1998 where the present petitioner was present. There were three items of agenda at the said meeting. The first item of agenda was the confirmation of the minutes of the earlier meeting, while discussing about the second item of agenda about the procedure of sanctioning the Loan Applications, the Members of the Committee passed the Resolution No.2 to the effect that “Before advancing the loan to the loanee, original documents should be taken and loan should be disbursed only after execution of Mortgage Deed and female members should not be accepted as guarantors. Based on these points, the loan applications are to be

considered by the Committee." Thereafter, in the meeting held on 10.03.1998, her resignation was accepted and since then she never attended any meeting of the Credit Society, and by Resolution dated 10th March, 1998 the petitioner was relieved from the Membership of Managing Committee by Resolution No.6.

7. Considering the above facts, pleadings and submissions of Mr. A.D. Shah, the learned Advocate appearing for the petitioner, the Court is of the view that there was no involvement of the petitioner in sanctioning of loans. Mr. M.A. Patel, the learned Assistant Public Prosecutor appearing for the State has fairly conceded that there is no material against the petitioner. This petition is, therefore, allowed. Criminal Case No. 3565 of 2004, qua the petitioner is quashed. Rule made absolute.

(K.A.PUJ,J.)

Hitesh